United States Court of Appeals

for the Second Circuit

APPELLANT'S BRIEF

74-1310

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

UNITED STATES OF AMERICA

74 1310

Appellee

-against-

73 CR 68

JESUS RAMOS

Appellant

- x

B

P/S

APPELLANT'S BRIEF

CLARK AND HARLEY
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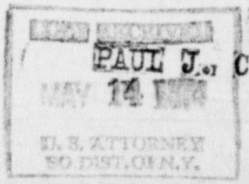
BY: BRUCE G. CLARK



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

UNITED STATES OF AMERICA,

APPELLEE

-against- 73 CR 68

JESUS RAMOS,

APPELLANT

- x

APPELLANT'S BRIEF

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

UNITED STATES OF AMERICA,

Appellee

-against- 73 Cr. 68

JESUS RAMOS,

Appellant

- x

STATEMENT OF THE CASE

The appellant was prosecuted and convicted on all three counts of an indictment alleging violations of the Military Selective Service Act of 1967: failure to register with the Selective Service; failure to report for an armed forces physical examination; and failure to report for induction into the armed forces.

Although the appellant became 18 years of age on April 24, 1968, he did not report at the office of his local Selective Service Board for induction until July 5, 1972.

Thereafter, although notices to report for physical examination and to report for induction were mailed by the Selective Service, the appellant did not

report.

Upon direct examination by appellant's counsel, the appellant testified as follows:

> That appellant was 18 on April 24, 1969. Counsel then rehabilitated the appellant to correctly state that his eighteenth birthday was April 24, 1968. (S4)*
>
> When asked by counsel when he had become aware of his obligation to register, appellant stated that he had learned of his obligation while at a training program at the police academy. (S4)
>
> His attorney then began a series of questions regarding appellant's enrollment in the police academy, training and qualification. (S5)
>
> When the appellant stated he was at the academy to become a policeman, his attorney

* References to the record preceded by "S" refer to the supplemental separately numbered transcript containing the direct and cross examination of the appellant.

caused him to contradict himself and state that it was really to become a corrections officer. (S5)

Upon counsel's question whether he applied to the Corrections Department, the appellant stated that he applied, was given and passed written and physical examinations and received a letter from Commissioner Malcolm that he would be appointed eventually. (S5)

Counsel asked his client if he was sure he was in the cadet program. The appellant replied that he was positive and produced an identification card in the name of "Jay Ramos". His own counsel then confronted the defendant with an out of court statement that he had never used any other name with the police cadet program. (S10-11)

Counsel then went on to the means by which appellant learned of his obligation

to register. When the appellant stated that it came up in connection with discussions of the New York State Penal Law, appellant's counsel stated incredulously, "In connection with the discussion of the New York State Penal Law?"

Although the appellant admitted to the Court that he had been enrolled in the police academy from the middle of 1970 to the middle of 1971 (S11-12), and it had been testified by a Selective Service officer on the prosecution's case that the appellant registered on January 7, 1972 (Prosecution's Exhibit 1), his counsel asked appellant when he became aware of his obligation. Appellant stated in 1970. Counsel asked "So you ran right down and registered, right?" His own counsel then confronted appellant with Prosecution's Exhibit 1, showing the date of appellant's registration as January 7, 1972 and thereby destroying his own client's credibility. (S13-15)

Counsel then again confronted his client with the client's confusion between a police officer and a corrections officer. (S15)

Appellant's counsel then confronted him with the conflict between his position that he was eligible for employment with the Correction Department and Prosecution exhibit 4 which was a letter by the Correction Department stating appellant's ineligibility. (S16)

In open court on direct examination, counsel and client had the following colloquy:

"Q. Mr. Ramos, have I told you on a number of occasions that I don't think your story constitutes a defense?

"A. Well this is what has happened.

"Q. I have said that to you, haven't I?

"A. You have said this to me, yes.

"Q. In fact, didn't I suggest to you at one time that I had discussed the matter with Mr. Wilson, the Assistant United States Attorney handling the matter, and we had reached agreement if you would concur, on a plea bargain, and you said you didn't want any part of it, is that right?

"A. Excuse me?

"Q. Didn't I tell you at one time that I had discussed with Mr. Wilson that he would permit you to plead guilty to the first count of the indictment, failure to register, and you said you didn't want any part of that, you wanted to proceed and tell your story to Judge Frankel; is that right?

"A. That's correct, yes. (822)

The Court directed defendant's counsel, at the end of this line of questioning, to stop asking questions which may be construed as injurious to the defendant's position. (824)

In explanation of his actions, appellant's counsel stated:

"It is my position, and I asked those questions in the absence of a jury in a non-jury proceeding because I feel that, despite what my client's position has been since I came on this case in regard to a psychiatric examination and psychiatric testimony, and which the Court correctly stated in the bench conference I had supported, as I felt it was my obligation to do, that it has become apparent to me that my client's position cannot be injured by anything I could ask him, and that, indeed, the only thing I can do to assist him is to make it, try and make it apparent to the Court that there's substantial problems here other than mere criminal liability. And it was with that in mind that I asked those questions.

"I realize, to say the least, its somewhat unorthodox. But, on the other hand, I do maintain that my highest responsibility is to

my client and I have decided that that would be the best way to assist him in not sustaining a criminal conviction in this case, which I think would be highly injurious to him, as it always is." (824-25)

During the course of defendant's direct examination, his counsel made the following statement in the robing room:

"Your Honor, I am in somewhat of an ethical bind, I suppose. Yesterday I issued a subpoena duces tecum to the Police Cadet Program, to the Board of Education, who ran the program in 1970, '71. I had tried to get information before this, but I couldn't do it without subpoena as to my client's enrollment there. I must preface this by saying to the Court that my client has insisted on this trial and insisted on taking the stand. And up to this point I felt I had no choice but to go along with it. But the Police Cadet Department subject to that subpoena, in the

person of a Miss McClain, arrived this morning and told me there was no record of my client whatsoever. I must -- I don't feel that I can let this go on on the stand and yet, I have some real problems with this proceeding that I am engaged in right now. I really don't know exactly what to do about it. On the other hand, I think quite honestly that the Court, from the demeanor of my client so far and from the comments you made at the Bench earlier, might infer that something was not altogether right there. He has consistently refused to see a psychiatrist, and that is why I have opposed it to this date. He saw a psychiatrist when you had to jail him to do it, for the purposes of deciding whether or not he was competent to stand trial. And at that point, there were enough problems while he was in jail so that I thought I was going to get arrested on information he gave me and I tried to spring him when he hadn't been ex-

amined yet. I went to the marshal and said the psychiatrist has been here, my client is calling, why don't you let him out, and then I found out that the psychiatrist hadn't been there. And I quickly made amends with the marshal. But I do find myself in rather a deep ethical bind at this point. I don't feel I can let that testimony go, since I know the answer, because I subpoenaed records which he assured me would exist, to support him. And finding that out, once he gives me that answer, and talks about a police cadet program, I feel I have no choice but to disclose. I don't know what to do. The last thing I want is a mistrial in this case, but I suspect that is where we are at.

THE COURT: No, I don't know that we are at the stage of a mistrial. The only substantial thing that your presentation suggests to me that might have or can be in the interests of your client is the ques-

tion of his mental or emotional condition at the time in question. I am compelled at this point, only because life has to go on, to accept what I believe our record discloses, the undisputed judgment of a qualified psychiatrist that this defendant is competent to stand trial."

Counsel in the above statement referred to a pretrial psychiatric examination which apparently, from the Court's reply, found the defendant competent to stand trial. (S24 and 175)

The Court, at the end of defendant's case, raised the question of Mr.Ramos' emotional stability (175). The Court further stated that it would allow:

Mr. Ramos to enlist in the service, if acceptable, and all charges to be dropped by the government upon his enlistment. If the Army found Mr. Ramos unacceptable, or if Mr. Ramos would not enlist,

"Then I am going to dump Mr. Ramos into West Street and I am going to have a psychiatrist look at him again, and then

you can have a psychiatrist look at him and then I am going to listen to a psychiatrist on the witness stand and I am going to decide whether he should be held beyond a reasonable doubt not to have been crazy at the times with which we are concerned." (176-177)

The Court then asked the defendant whether, if the government agreed to allow him, he would submit to induction in the armed forces, if qualified, and have all charges dropped. The defendant, on four occasions, agreed.

There is no indication within the record that, in response to the Court's proposition, the government refused to allow the defendant to submit to induction, the defendant refused induction, the defendant was examined to determine his mental condition at the time of the acts alleged, or that a psychiatrist was ever before the Court on the question of the defendant's competency at the time of commission of the acts.

ARGUMENT

POINT I

A FURTHER PSYCHIATRIC EXAMINATION OF THE APPELLANT SHOULD HAVE BEEN ORDERED

TO DETERMINE WHETHER, AT THE TIME THE ALLEGED VIOLATIONS WERE COMMITTED, THE APPELLANT WAS MENTALLY CAPABLE OF APPRECIATING THE QUALITY OF HIS ACTS.

18 U.S.C. Sec. 4244 requires a psychiatric examination of any defendant where it appears to the United States Attorney, the defense attorney or the Court, that the defendant may be "presently insane or otherwise so mentally incompetent as to be unable to understand the proceedings against him or properly to assist in his own defense."

Here, such an examination was conducted and the appellant, apparently, was determined to be competent to stand trial. The question was raised, however, by the Court during the trial, as to the mental capacity of the appellant at the time of the commission of the alleged criminal acts. There is no allegation in the record that the pretrial psychiatric examination decided the question of the competency of the accused at the time of the commission of the crimes. If anything, the Court held that the examination only determined present sanity. (137, 175)

It has been held that an examination conducted under 18 U.S.C. Sec. 4244 must be broad enough to include

an inquiry into the accused's mental condition at the time the act was committed. Winn v. U.S. 1959 106 U.S. App. D. C. 133, 270 F. 2d 326; Calloway v. United States 1959 106 U.S. App. D. C. 141, 270 F. 2d 334. Here, the Court appears to have specifically excluded the possibility that the pretrial examination covered previous insanity.

It has been held in Clark v. United States 1958 104 U. S. App. D. C. 27, 259 F. 2d 184 and Tatum v. U.S. 1951 88 U. S. App. D. C. 386, 190 F. 2d 612 that the defendant's trial counsel had no right to concede his client's sanity.

It was, therefore, incumbent upon the Court to order a further examination of the defendant upon the Court's own motion to determine the question of the sanity of the defendant at the time of the commission of the crimes alleged.

POINT II

ONCE THE QUESTION OF THE APPELLANT'S SANITY WAS RAISED, AND SOME EVIDENCE OF INSANITY BEFORE THE COURT, THE BURDEN SHIFTED TO THE PROSECUTION TO PROVE BEYOND A REASONABLE DOUBT THAT THE APPELLANT WAS SANE AT THE TIME OF THE COMMISSION OF THE ALLEGED ACTS.

The Court stated on pages 175, 176 of the record, "The question of how and whether a judge might nevertheless find from circumstances as the case unfolds a need to conclude that the Government had not overcome the burden of -- had not sustained a burden of proving what we used to call:

> "The question of how and whether a judge might nevertheless find from circumstances as the case unfolds a need to conclude that the Government had not overcome the burden of -- had not sustained a burden of proving what we used to call sanity in a case where the defendant doesn't want to raise that defense, that question is a very tough one. In spite of some of my simple answers to Mr. Cohn in the manner of a trial judge, I'm not so sure that it can be brushed aside airily. One way it can be brushed aside for me in the contest of a Selective Service case is if a shrink in prison or elsewhere says a man is competent and then an army

doctor says he is competent enough for us and he says he wants to go in and the Service takes him. Then since I never feel in these cases we are never dealing with people who are likely to commit arson or murder or rape a lot, I feel the purposes of the law have been vindicated. I don't think it's in the ball park of our concerns to say you looked through the files and you found --" . . .

Thus, the Court, which was burdened with decision of the defendant's guilt beyond a reasonable doubt, indicated to counsel for the defense and the government that it thought some probability of insanity had been raised.

Only slight evidence is needed to raise the issue of insanity, Blake v. United States (1969, 5th Cir.) 407 F. 2d 908. That evidence apparently existed to the perception of the Court which heard the testimony and observed the demeanor of the defendant. Once the prospect of a further psychiatric examination was raised and concurred in by the defendant's attorney, the Court

went beyond its proper discretion in failing to follow through on the examination and continuing the trial until the issue could be finally determined.

POINT III

APPELLANT WAS WITHOUT EFFECTIVE ASSISTANCE OF COUNSEL

The excerpted direct examination of the appellant by his counsel suggests either of two explanations; the appellant was not mentally competent, or his attorney did not exercise those skills normally expected in defense counsel.

Every subject introduced by appellant's counsel in his questions to appellant became a vehicle by which appellant's counsel then impeached and contradicted his counsel.

While appellant's stated excuse to the FBI and Selective Service Board was that he had no received mail, no questions were asked of appellant by his counsel about his difficulties with the mail, other's with similar names to the appellant in his housing development, or the receipt of the mail of other parties.

While government's witness Foley (97-105) indicated that there was a Corrections Department file on

the appellant (98), that the appellant had prior to November 1971 been certified for consideration for employment as a corrections officer, that he had taken the written examination for correction officer (100), and that he had been called in for an interview (101), and in view of the appellant's verbal confusion between police officers and correction officers, and appellant's possession of a Police Academy identification card in the name of "Jay" Ramos, appellant's attorney chose to accuse appellant of a very questionable perjury before the Judge who was also acting as trier of the facts and without giving his client the opportunity to know that he was being accused, or to reply to the accusations. There obviously were some grounds for the appellant's belief that he was about to become a corrections officer and there also obviously existed in appellant's mind some belief that corrections officers were exempt from the operations of the Selective Service System.

Indeed, not only did appellant's counsel raise no defense whatsoever, he disregarded the Court's suggestion to go out and attempt to rehabilitate his client (140), and the Court's direction that "I don't want you

to ask any more questions, if that's your intention, that could elicit responses that might be construed by you or by me as being injurious to your client's position." (824) If anything, defense counsel's conduct served to bolster the prosecution's case.

It is, therefore, concluded, that if the appellant was not without his necessary mental faculties, he was without his constitutionally guaranteed effective assistance of counsel.

Respectfully submitted,

CLARK AND HARLEY
Attorneys for Appellant

By: BRUCE G. CLARK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

UNITED STATES OF AMERICA

INDICTMENT

- v -

JESUS RAMOS,

73 Cr. 68

Defendant

- x

COUNT ONE

The Grand Jury charges:

From on or about the 30th day of April, 1968 to on or about January 6, 1972, in the Southern District of New York, JESUS RAMOS, the defendant, unlawfully and knowingly did fail, neglect and refuse to perform a duty required of him under and in execution of the Military Selective Service Act of 1967, Title 50 Appendix, United States Code, Section 451 et seq., and the rules, regulations and directions made pursuant thereto, in that he being a male citizen of the United States, between the ages of eighteen and twenty-six, unlawfully and knowingly did fail, neglect and refuse to register before the duly designated registration official and local board, which

had jurisdiction in the area in which he was on the day fixed for his registration.

(Title 50 Appendix, United States Code, Section 462(a); 32 C.F.R. 1611.1; C.F.R. 1611.7(b), (c).)

COUNT TWO

The Grand Jury further charges:

On or about the 1st day of May, 1972, and up to and including the date of the filing of this indictment, in the Southern District of New York, JESUS RAMOS, the defendant, unlawfully and knowingly did fail, neglect and refuse to perform a duty required of him under and in execution of the Military Selective Service Act of 1967, Title 50 Appendix, United States Code, Section 451 et seq., and the rules, regulations and directions made pursuant thereto, in that he, being a registrant, to whom an Order to Report for an Armed Forces Physical Examination had been mailed by his Selective Service System Local Board, unlawfully and knowingly did fail, neglect and refuse to report for his Armed Forces Physical Examination.

(Title 50 Appendix, United States Code, Section 462(a); 32 C.F.R. 1828.10.)

COUNT THREE

The Grand Jury further charges:

On or about the 28th day of June, 1972, and up to and including the date of the filing of this indictment, in the Southern District of New York, JESUS RAMOS, the defendant, unlawfully and knowingly did fail, neglect and refuse to perform a duty required of him under and in execution of the Military Selective Service Act of 1967, Title 50 Appendix, United States Code, Section 451 et seq., and the rules, regulations and directions made pursuant thereto, in that he, being a registrant, to whom an Order to Report for Induction had been mailed by his Selective Service System Local Board, unlawfully and knowingly did fail, neglect and refuse to report for induction into the Armed Forces of the United States.

(Title 50 Appendix, United States Code, Section 462(a); 32 C.F.R. 1632.14.)

Foreman

WHITNEY NORTH SEYMOUR, Jr.
United States Attorney

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - - X

UNITED STATES OF AMERICA, :

vs. : 73 Crim. 68

JESUS RAMOS, :

Defendant. :

- - - - - - - - - - - - - - - - - - - X

January 16, 1974

(Decision of the Court.)

THE COURT: I have seen this piece of paper, Defendant's Exhibit C, the authenticity of which is stipulated, and which, as I understand it, is stipulated to have been given to the defendant by Mr. Bartles. Is that right?

MR. COHN: That's correct.

THE COURT: In the view I take of the evidence in this case, it does not make any special difference. I think those events of late 1972 and early 1973 have some tendency to reinforce the conclusion which I have reached that the defendant at the material times had the requisite knowledge and understanding of his obligations and had the notice of his several obligations which I think are the only subjects ultimately that were really open to question in this litigation.

So, I am now prepared to announce and I do announce

the Court's verdict, which is that the defendant is guilty as charged on all three counts of this indictment.

To elaborate very briefly what is not a very complex determination, as to count one, as I have mentioned, I think the only conceivable issue was as to the state of the defendant's knowledge of his obligations as that might have a bearing on the question of his having the requisite intent to commit this violation. On that I find that the defendant's claim of ignorance is untenable as a matter of fact.

The claim is belied in my judgment by his own testimony. Considering all the circumstances and the nature of his activities, the level of his intelligence and awareness, I would be disposed to find, if it were essential and I would be prepared to find beyond a reasonable doubt that he knew of the obligation to register in April of 1968 when it first became incumbent on him to perform that duty.

But, the case against Mr. Ramos is clearer than that, I believe, because the evidence is beyond question that in the course of his studies, what has been referred to as the Police Academy studies, he became explicitly and repeatedly familiar with that obligation, that continuing obligation, and he never performed it.

I have already ruled on the question whether the failure to refer the matter to prosecution earlier should in

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some sense be deemed a waiver or a nullification of the power to prosecute for the offense charged in count one. I repeat that I don't find any such waiver and I don't believe that the Selective Service or Local Board members would have the power to effect a waiver of that kind.

I recognize fully, and I think it is desirable, that they have in practical effect the power to give a man another chance to conform to his obligations, and then, using their share of what amounts to prosecutorial discretion, to refrain from referring the matter if the man proceeds at that point to comply with his Selective Service duties. I don't have to go in to any detail or consideration as to how that power is limited or to what extent it has to be exercised in consultation with the Department of Justice. None of that is before me, though it may be interesting.

I do hold as a matter of law that the power to prosecute was never relinquished or waived and that no such legal contention can defeat the accusation on which I now hold the defendant guilty under count one.

Counts two and three really center around the question of whether Mr. Ramos received the mailed notices of the obligations he is charged in those counts with having violated. I am persuaded beyond a reasonable doubt that he did. Whether or not the evidence of due and regular mailing

in this record would be sufficient in itself for such findings it is not really necessary to decide.

Once again, I would think the defendant's own assertions on this subject serve to reinforce the finding that he had those notices. His assertions of mailbox trouble, difficulties with the mail, in the state of this record are incredible. There is clear evidence that convinced me that there was no such mailbox trouble. There was evidence also convincing that Mr. Ramos never even suggested that there was a problem of this nature to the people who would have been the proper recipients of such suggestions, until after he had been arrested on the charges which give rise to this indictment.

In sum, then, theCourt, as I have said, finds the defendant guilty on each of the three counts of this indictment.

...INAL DOCKET
...TATES DISTRICT COURT

Form No. 100 Rev.

JUDGE FRANKEL 73 CRIM. 39

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	*For U.S.:* 264-6439
vs.	Special AUSA George E. Wilson
JESUS RAMOS	
	For Defendant:

STATISTICAL RECORD	COSTS			DATE	NAME OR RECEIPT NO.	REC.		DISB.	
J.S. 2 mailed	Clerk								
J.S. 3 mailed	Marshal								
Violation	Docket fee								
Title 50 App. Sec. 462(a) 32 CFR 1611.1 and Sec. 1611.7(i), (c) failure to register for sel. service(ct.1) 32 CFR 1628.10 failure to report for physical Exam.(ct.2) 32 CFR 1632.14 failure to report for induction into Armed Forces (ct.3)									

DATE	THESE COURTS PROCEEDINGS
1-19-73	Filed Indictment. B/W ordered. -- Stewart, J.
1-19-73	B/W issued.
1-29-73	No appearance - Court directs entry of not guilty plea. Case assigned to Judge Frankel. -- Knapp, J.
3-26-73	Filed order that Dr. George Hamilton Wilkie M.D. a qualified psychiatrist is to examine the deft for mental competency at his office at 903 Park Ave N.Y. and that the U.S. Atty is to pay an reasonable fee of $125.00. frankel,J.
5-16-73	B/W issued.
5-16-73	Deft. failed to appear for hearing. B/W ordered. -- Frankel, J.
5-19-73	B/W vacated. - Frankel, J.
	- Clerk -

DATE	PROCEEDINGS
6-14-73	Larry Greenberg relieved as counsel ~~HXXXXXXt~~Frederick H. Cohn appointed under CJA, Deft remanded for psychiartric examination ~~PRB~~ ~~xx xxxxxd~~ to b released upon completion of examination PRB to continue in effect during this period, Frankel,J.
6-15-73	Filed order-Deft. be remanded for the purpose of a psychiatric exam. Dr. George Hamilt Wilhie exam. deft. at the Fed. House of Det. Upon completion of said exam. deft. be forthwith released from the custody of the U.S. Marshal. The previous bail shall conti in effect. Frankel, J.
6-18-73	JESUS RAMOS-Filed order of substitution of counsel-L.Greenberg is relieved and Freder H. Cohn 640 B'way N.Y.C. 10012 677-1552 is appointed-Frankel, J.
6-28-73	FRANK MOODY-Filed copy of letter of Judge Frankel to Mr. Moody--Application for reduction of sentence is denied. dtd. 6-27-73.(Letter of Mr. Moody to Judge Frankel attached.)
7-23-73	JESUS RAMOS-Filed affdvt & notice of motion to dismiss ct. 1-Ret. 8-28-73.
7-23-73	JESUS RAMOS-Filed affdvt & notice of motion for suppression-Ret. 8-28-73.
7-23-73	JESUS RAMOS-Filed memorandum of Law in support of motion to dismiss ct. 1.
9-17-73	Filed Affdvt of G.E.Wilson, AUSA in opposition to motion pursuant to F.R.C.P. 12(b)
9-17-73	Filed memorandum,deft has made motions to dismiss ard for oh other relief. They are decided as follows:In sum, the motion are denied but subject to renewal. So Ordered.....Frankel, J. m/n
10-2-73	Pre-trial held - Trial set for Nov.13-73.
12-4-73	Filed copy of Govt's trial memorandum (Orig.not available)
12-4-73	Filed Govt's memorandum of law on defense of mistake or lack of knowledge
12-6-73	Deft & atty.present...Trial by ~~HON~~ JURY trial commenced ~~xxxxxxxxxx~~ Decision reserved....Frankel, J.
12-17-73	Deft(Atty.present)Ordered to undergo an examination by a psychiatrist...Frankel,J.
12-19-73	Filed order appointing Gurston Goldin,M.D. to examin the deft and to submit a report to the Court & U.S.Atty.....Frankel, J.
1-16-74	TRIAL resumed. Court finds deft GUILTY on all 3 counts..P.S.I. Sent. 2-28-74. deft R.O.R.....FRANKEL, J.
1-30-74	Filed deft's memorandum of law.
1-30-74	Filed Govt's trial memorandum
1-30-74	Filed Govt's memorandum on waiver of the insanity defense
2-20-74	Mailed Original CJA copy 1 to A.O. Wash.D.C. for payment....Frankel, J.

(See page 3)

DATE	PROCEEDINGS
2-28-74	Filed Judgment(Atty.Frederick H.Cohn present)the imposition of prison sentence is suspended. Deft is placed on probation for a period of ONE YEAR, subject to the standing probation order of this Court.....Frankel, J. Ent. on docket 3-6-74.
3-1-74	Filed notice of appeal from judgment of 2-28-74..Copy sent to deft at 170 Ave. D. New York,N.Y. Apt.11 F and to U.S.atty.